

1
2 UNITED STATES DISTRICT COURT
3 WESTERN DISTRICT OF WASHINGTON
4 AT TACOMA

5 ERICK HERNANDEZ,

6 Plaintiff,

7 v.

8 DALE NELSON, *et al.*,

9 Defendants.

No. C08-5242 FDB

**ORDER ADOPTING REPORT AND
RECOMMENDATION DISMISSING
PLAINTIFF'S COMPLAINT WITH
PREJUDICE**

10 The Magistrate Judge recommends that Defendant David Jennings' Rule 12(b)(6) motion
11 be granted and this prisoner civil rights action be dismissed for failure to state a claim. Plaintiff
12 did not respond to the motion to dismiss and has not filed objections to the Report and
13 Recommendation.

14 The Court, having reviewed the Report and Recommendation of Magistrate Judge Karen
15 L. Strombom, and the remaining record, does hereby find and **ORDER:**

- 16
- 17 1) The Court adopts the Report and Recommendation;
 - 18 2) Defendant Jennings' Motion to Dismiss [Dkt. 27] is **GRANTED** and Plaintiff's
19 Amended Complaint [Dkt. 8] is **DISMISSED as to Defendant David W.
Jennings.**
 - 20 3) The Clerk is directed to send copies of this Order to Plaintiff, counsel for
21 Defendants and to the Hon. Karen L. Strombom.
- 22

23 **DATED** this 16th day of February, 2010

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26 FRANKLIN D. BURGESS
UNITED STATES DISTRICT JUDGE